

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

-----In the Matter of----- )  
 )  
MOLOKAI PUBLIC UTILITIES, INC., )  
WAI'OLA O MOLOKA'I, INC., and )  
MOSCO, INC. )  
 )  
For Temporary Rate Relief. )  
\_\_\_\_\_ )

DOCKET NO. 2008-0115

ORDER DENYING MOTION TO MODIFY ORDER OF  
JUNE 23, 2008 DIRECTING MOLOKAI PROPERTIES, LTD. TO PARTICIPATE

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PUBLIC UTILITIES  
COMMISSION

FILED

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ORDER DENYING MOTION TO MODIFY ORDER OF  
JUNE 23, 2008 DIRECTING MOLOKAI PROPERTIES, LTD. TO PARTICIPATE

By this Order, the commission denies the "Motion to Modify Order of June 23, 2008 Directing Molokai Properties, Ltd. to Participate in Docket No. 2008-0115," filed by Molokai Properties, Limited ("MPL") on July 14, 2008 ("Motion").

I.

Motion

On June 23, 2008, the commission issued its Order Directing MPL to Participate in this Proceeding ("Order").<sup>1</sup>

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<sup>1</sup>The commission's Order filed on June 16, 2008, opening this docket named MPL as a party to the proceeding. The commission issued the Order to Participate in response to a letter filed by MPL on June 18, 2008 in which MPL contested the commission's jurisdiction over MPL for numerous reasons. The commission construes MPL's June 18, 2008 letter as a motion under Hawaii Administrative Rules ("HAR") § 6-61-41 that was denied by the commission's Order on June 23, 2008.

On July 14, 2008, MPL filed its Motion, explaining that it was appearing specially to contest the jurisdiction of the commission to direct MPL to fully participate in this docket.<sup>2</sup> MPL states: "In the Order to Participate, the Commission has suggested various arguments to support its right to require MPL to fully participate in the proceeding that it has commenced, but a careful examination of those arguments demonstrates that they do not provide the basis for the jurisdiction that the Commission asserts."<sup>3</sup> MPL then attempts to refute many of the legal grounds addressed in the Order that support commission jurisdiction over MPL.

Upon review, the commission finds that MPL's Motion directly responds to, and requests different relief from, the Order. In fact, MPL specifically "requests the Commission either to reconsider and vacate the [Order]" in the Motion.<sup>4</sup> For these reasons, the commission construes MPL's Motion as a motion for reconsideration of the Order.

Under HAR § 6-61-137 of the commission's rules of practice and procedure, motions for reconsideration of a commission order must be filed within ten days after the order is

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<sup>2</sup>See Motion at 1. On July 30, 2008, the County of Maui ("County") filed a memorandum in opposition to the Motion. The commission, however, does not consider the County's opposition herein because it was not timely filed under HAR § 6-61-41(c), which requires that an opposition to a motion be filed within five days after service of the motion.

<sup>3</sup>Id. at 2.

<sup>4</sup>Id. at 5.

served upon a party.<sup>5</sup> Here, MPL's Motion was filed on July 14, 2008, well more than ten days after the Order was filed on June 23, 2008. Accordingly, the commission denies the Motion as untimely.

## II.

### Orders

#### THE COMMISSION ORDERS:

1. MPL's Motion, filed on July 14, 2008, is denied.
2. Consistent with the commission's Order of June 23, 2008, MPL shall fully participate in this proceeding as directed by the commission.

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<sup>5</sup>HAR § 6-61-137 specifically provides:

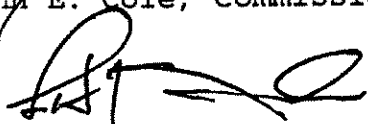
A motion seeking any change in a decision, order, or requirement of the commission should clearly specify whether the prayer is for reconsideration, rehearing, further hearing, or modification, suspension, vacation, or a combination thereof. The motion shall be filed within ten days after the decision or order is served upon the party, setting forth specifically the grounds on which the movant considers the decision or order unreasonable, unlawful, or erroneous.

DONE at Honolulu, Hawaii AUG. = 8 2008.

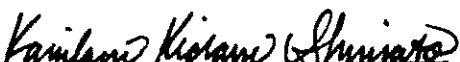
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
John E. Cole, Commissioner

By   
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

  
Kaiulani Kidani Shinsato  
Commission Counsel

2008-0115.laa

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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